

HOUSE BILL 297

Unofficial Copy  
Q3

2004 Regular Session  
(4lr0152)

**ENROLLED BILL**  
-- Ways and Means/Budget and Taxation --

Introduced by **The Speaker and the Minority Leader (By Request -  
Administration)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Office of the Comptroller - Tax Compliance - Holding Companies**

3 FOR the purpose of authorizing the Comptroller to distribute, apportion, or allocate  
4 certain tax attributes between and among two or more organizations, trades, or  
5 businesses under certain circumstances; requiring that certain interest  
6 expenses and certain intangible expenses be added to the federal taxable income  
7 of a corporation to determine Maryland modified income under certain  
8 circumstances; requiring certain corporations under certain circumstances to  
9 include with an income tax return or otherwise file with the Comptroller a  
10 certain statement regarding certain dealings and transactions with related  
11 corporations; ~~providing for a certain tax credit~~ allowing a subtraction  
12 modification for certain royalties, interest, or similar income from intangibles  
13 under certain circumstances; providing for a certain estimated payment;  
14 allowing the Comptroller to assess interest and penalty for failure to provide the  
15 required estimated payment; requiring the Comptroller to adopt certain  
16 regulations; defining certain terms; making the provisions of this Act severable;

1 providing for the effective date and application of this Act; and generally  
2 relating to tax administration and compliance.

3 BY adding to  
4 Article - Tax - General  
5 Section 10-109, and 10-306.1, ~~and 10-725~~  
6 Annotated Code of Maryland  
7 (1997 Replacement Volume and 2003 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article - Tax - General  
10 Section 10-804(e)(3)  
11 Annotated Code of Maryland  
12 (1997 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Tax - General**

16 10-109.

17 (A) ~~FOR ORGANIZATIONS, TRADES, OR BUSINESSES DOING BUSINESS IN THE~~  
18 ~~STATE OF MARYLAND,~~ THE COMPTROLLER MAY DISTRIBUTE, APPORTION, OR  
19 ALLOCATE GROSS INCOME, DEDUCTIONS, CREDITS, OR ALLOWANCES BETWEEN AND  
20 AMONG TWO OR MORE ORGANIZATIONS, TRADES, OR BUSINESSES, WHETHER OR NOT  
21 INCORPORATED, WHETHER OR NOT ORGANIZED IN THE UNITED STATES, AND  
22 WHETHER OR NOT AFFILIATED, IF:

23 (1) THE ORGANIZATIONS, TRADES, OR BUSINESSES ARE OWNED OR  
24 CONTROLLED DIRECTLY OR INDIRECTLY BY THE SAME INTERESTS WITHIN THE  
25 MEANING OF § 482 OF THE INTERNAL REVENUE CODE; AND

26 (2) THE COMPTROLLER DETERMINES THAT THE DISTRIBUTION,  
27 APPORTIONMENT, OR ALLOCATION IS NECESSARY IN ORDER TO REFLECT AN ARM'S  
28 LENGTH STANDARD WITHIN THE MEANING OF § 1.482-1 OF THE REGULATIONS OF  
29 THE INTERNAL REVENUE SERVICE OF THE U.S. TREASURY AND TO REFLECT  
30 CLEARLY THE INCOME OF THOSE ORGANIZATIONS, TRADES, OR BUSINESSES.

31 (B) THE COMPTROLLER SHALL APPLY THE ADMINISTRATIVE AND JUDICIAL  
32 INTERPRETATIONS OF § 482 OF THE INTERNAL REVENUE CODE IN ADMINISTERING  
33 THIS SECTION.

34 10-306.1.

35 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
36 INDICATED.

1                   (2)       "AGGREGATE EFFECTIVE TAX RATE" MEANS THE SUM OF THE  
2 EFFECTIVE RATES OF TAX IMPOSED BY ALL STATES, INCLUDING THIS STATE AND  
3 OTHER STATES OR POSSESSIONS OF THE UNITED STATES, WHERE A RELATED  
4 MEMBER RECEIVING A PAYMENT OF INTEREST EXPENSE OR INTANGIBLE EXPENSE  
5 IS SUBJECT TO TAX AND WHERE THE MEASURE OF THE TAX IMPOSED INCLUDED  
6 THE PAYMENT.

7                   ~~(2)~~       (3)       "BANK" MEANS:

8                   (I)       A BANK HOLDING COMPANY AS DEFINED IN THE FEDERAL  
9 BANK HOLDING COMPANY ACT OF 1956, AS AMENDED, OR A BANK, TRUST COMPANY,  
10 SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION INCORPORATED OR  
11 CHARTERED UNDER THE LAWS OF THIS STATE, ANOTHER STATE, OR THE UNITED  
12 STATES; OR

13                  (II)       A SUBSIDIARY OR AFFILIATE OF AN ENTITY DESCRIBED IN  
14 ITEM (I) OF THIS PARAGRAPH.

15                  (4)       "EFFECTIVE RATE OF TAX IMPOSED" MEANS, AS TO ANY STATE OR  
16 POSSESSION OF THE UNITED STATES, THE MAXIMUM STATUTORY TAX RATE  
17 IMPOSED BY THE STATE OR POSSESSION MULTIPLIED BY THE APPLICABLE  
18 APPORTIONMENT RATE.

19                  ~~(3)~~       (5)       "INTANGIBLE EXPENSE" MEANS:

20                  (I)       AN EXPENSE, LOSS, OR COST FOR, RELATED TO, OR IN  
21 CONNECTION DIRECTLY OR INDIRECTLY WITH THE DIRECT OR INDIRECT  
22 ACQUISITION, USE, MAINTENANCE, MANAGEMENT, OWNERSHIP, SALE, EXCHANGE,  
23 OR ANY OTHER DISPOSITION OF INTANGIBLE PROPERTY, TO THE EXTENT THE  
24 EXPENSE, LOSS, OR COST IS ALLOWED AS A DEDUCTION OR COST IN DETERMINING  
25 TAXABLE INCOME FOR THE TAXABLE YEAR UNDER THE INTERNAL REVENUE CODE;

26                  (II)       A LOSS RELATED TO OR INCURRED IN CONNECTION DIRECTLY  
27 OR INDIRECTLY WITH FACTORING TRANSACTIONS OR DISCOUNTING TRANSACTIONS;

28                  (III)       A ROYALTY, PATENT, TECHNICAL, OR COPYRIGHT FEE;

29                  (IV)       A LICENSING FEE; OR

30                  (V)       ANY OTHER SIMILAR EXPENSE OR COST.

31                  ~~(4)~~       (6)       "INTANGIBLE PROPERTY" MEANS PATENTS, PATENT  
32 APPLICATIONS, TRADE NAMES, TRADEMARKS, SERVICE MARKS, COPYRIGHTS, AND  
33 SIMILAR TYPES OF INTANGIBLE ASSETS.

34                  ~~(5)~~       (7)       "INTEREST EXPENSE" MEANS AN AMOUNT DIRECTLY OR  
35 INDIRECTLY ALLOWED AS A DEDUCTION UNDER § 163 OF THE INTERNAL REVENUE  
36 CODE FOR PURPOSES OF DETERMINING TAXABLE INCOME UNDER THE INTERNAL  
37 REVENUE CODE.

1                   ~~(6)~~     (8)       "RELATED ENTITY" MEANS A PERSON THAT, UNDER THE  
2 ATTRIBUTION RULES OF § 318 OF THE INTERNAL REVENUE CODE, IS:

3                   (I)       A STOCKHOLDER WHO IS AN INDIVIDUAL OR A MEMBER OF THE  
4 STOCKHOLDER'S FAMILY ENUMERATED IN § 318 OF THE INTERNAL REVENUE CODE,  
5 IF THE STOCKHOLDER AND THE MEMBERS OF THE STOCKHOLDER'S FAMILY OWN  
6 DIRECTLY, INDIRECTLY, BENEFICIALLY, OR CONSTRUCTIVELY, IN THE AGGREGATE,  
7 AT LEAST 50% OF THE VALUE OF THE TAXPAYER'S OUTSTANDING STOCK;

8                   (II)     A STOCKHOLDER OR A STOCKHOLDER'S PARTNERSHIP,  
9 LIMITED LIABILITY COMPANY, ESTATE, TRUST, OR CORPORATION, IF THE  
10 STOCKHOLDER AND THE STOCKHOLDER'S PARTNERSHIP, LIMITED LIABILITY  
11 COMPANY, ESTATE, TRUST, OR CORPORATION OWN DIRECTLY, INDIRECTLY,  
12 BENEFICIALLY, OR CONSTRUCTIVELY, IN THE AGGREGATE, AT LEAST 50% OF THE  
13 VALUE OF THE TAXPAYER'S OUTSTANDING STOCK; OR

14                  (III)     A CORPORATION OR A PARTY RELATED TO THE CORPORATION  
15 IN A MANNER THAT WOULD REQUIRE AN ATTRIBUTION OF STOCK FROM THE  
16 CORPORATION TO THE PARTY OR FROM THE PARTY TO THE CORPORATION UNDER  
17 THE ATTRIBUTION RULES OF § 318 OF THE INTERNAL REVENUE CODE, IF THE  
18 TAXPAYER OWNS DIRECTLY, INDIRECTLY, BENEFICIALLY, OR CONSTRUCTIVELY, AT  
19 LEAST 50% OF THE VALUE OF THE CORPORATION'S OUTSTANDING STOCK.

20                  ~~(7)~~     (9)       "RELATED MEMBER" MEANS A PERSON THAT, WITH RESPECT  
21 TO THE TAXPAYER DURING ALL OR ANY PORTION OF THE TAXABLE YEAR, IS:

22                  (I)       A RELATED ENTITY;

23                  (II)     A COMPONENT MEMBER, AS DEFINED IN § 1563(B) OF THE  
24 INTERNAL REVENUE CODE; OR

25                  (III)     A PERSON TO OR FROM WHOM THERE IS ATTRIBUTION OF  
26 STOCK OWNERSHIP IN ACCORDANCE WITH § 1563(E) OF THE INTERNAL REVENUE  
27 CODE.

28       (B)       (1)       EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ADDITION  
29 TO THE MODIFICATIONS UNDER §§ 10-305 AND 10-306 OF THIS SUBTITLE, THE  
30 AMOUNTS UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE ADDED TO THE  
31 FEDERAL TAXABLE INCOME OF A CORPORATION TO DETERMINE MARYLAND  
32 MODIFIED INCOME.

33                  (2)       THE ADDITION UNDER THIS SUBSECTION INCLUDES ANY  
34 OTHERWISE DEDUCTIBLE INTEREST EXPENSE OR INTANGIBLE EXPENSE IF THE  
35 INTEREST EXPENSE OR INTANGIBLE EXPENSE IS DIRECTLY OR INDIRECTLY PAID,  
36 ACCRUED, OR INCURRED TO, OR IN CONNECTION DIRECTLY OR INDIRECTLY WITH  
37 ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH, ONE OR MORE RELATED  
38 MEMBERS.

39       (C)       THE ADDITION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION DOES  
40 NOT APPLY TO ANY PORTION OF THE INTEREST EXPENSE OR INTANGIBLE EXPENSE

1 TO THE EXTENT THAT THE CORPORATION ESTABLISHES ~~BY CLEAR AND CONVINCING~~  
2 ~~EVIDENCE~~, AS DETERMINED BY THE COMPTROLLER, THAT:

3 (1) THE TRANSACTION GIVING RISE TO THE PAYMENT OF THE INTEREST  
4 EXPENSE OR INTANGIBLE EXPENSE BETWEEN THE CORPORATION AND THE  
5 RELATED MEMBER DID NOT HAVE AS A PRINCIPAL PURPOSE THE AVOIDANCE OF  
6 ANY PORTION OF THE TAX DUE UNDER THIS TITLE;

7 (2) THE INTEREST EXPENSE OR INTANGIBLE EXPENSE WAS PAID  
8 PURSUANT TO ARM'S-LENGTH CONTRACTS AT AN ARM'S-LENGTH RATE OF INTEREST  
9 OR PRICE; AND

10 (3) (I) DURING THE SAME TAXABLE YEAR, THE RELATED MEMBER  
11 DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED THE INTEREST EXPENSE  
12 OR INTANGIBLE EXPENSE TO A PERSON WHO IS NOT A RELATED MEMBER,~~THE~~  
13 ~~INTEREST EXPENSE OR INTANGIBLE EXPENSE;~~

14 (II) 1. THE RELATED MEMBER WAS SUBJECT TO A TAX  
15 MEASURED BY ITS NET INCOME OR RECEIPTS IN THIS STATE ~~AND OTHER STATES OR~~  
16 ~~POSSESSIONS OF THE UNITED STATES OR FOREIGN NATIONS, IN OR ANOTHER STATE~~  
17 OR POSSESSION OF THE UNITED STATES, OR IN A FOREIGN NATION THAT HAS  
18 ENTERED INTO A COMPREHENSIVE TAX TREATY WITH THE UNITED STATES  
19 GOVERNMENT;

20 2. A MEASURE OF THE TAX IMPOSED BY THIS STATE ~~AND~~  
21 ~~OTHER STATES OR POSSESSIONS OF THE UNITED STATES OR FOREIGN NATIONS, BY~~  
22 OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES, OR BY A FOREIGN  
23 NATION THAT HAS ENTERED INTO A COMPREHENSIVE TAX TREATY WITH THE  
24 UNITED STATES GOVERNMENT INCLUDED THE INTEREST EXPENSE OR INTANGIBLE  
25 EXPENSE RECEIVED BY THE RELATED MEMBER FROM THE CORPORATION; AND

26 3. ~~THE EFFECTIVE RATE OF TAX PAID BY THE RELATED~~  
27 ~~MEMBER TO THIS STATE AND OTHER STATES OR POSSESSIONS OF THE UNITED~~  
28 ~~STATES OR FOREIGN NATIONS IN THE AGGREGATE ON THE AMOUNTS RECEIVED BY~~  
29 ~~THE RELATED MEMBER FROM THE CORPORATION IS EQUAL TO OR GREATER THAN~~  
30 ~~4%; OR~~

31 3. THE EFFECTIVE RATE OF TAX AGGREGATE EFFECTIVE  
32 TAX RATE IMPOSED IN THE AGGREGATE ON THE AMOUNTS RECEIVED BY THE  
33 RELATED MEMBER FROM THE CORPORATION BY THIS STATE, BY OTHER STATES OR  
34 POSSESSIONS OF THE UNITED STATES, AND BY FOREIGN NATIONS THAT HAVE  
35 ENTERED INTO COMPREHENSIVE TAX TREATIES WITH THE UNITED STATES  
36 GOVERNMENT IS EQUAL TO OR GREATER THAN 4%; OR

37 (III) IN THE CASE OF AN INTEREST EXPENSE, THE CORPORATION  
38 AND THE RELATED MEMBER ARE BANKS.

39 (D) (1) SUBJECT TO REGULATIONS ADOPTED BY THE COMPTROLLER, THE  
40 ADDITION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION DOES NOT APPLY IF,  
41 IN LIEU OF THE 4% EFFECTIVE TAX RATE REQUIREMENT UNDER SUBSECTION

1 (C)(3)(II)3 OF THIS SECTION, THE AGGREGATE EFFECTIVE TAX RATE IMPOSED ON THE  
2 AMOUNTS RECEIVED BY THE RECIPIENT IS GREATER THAN OR EQUAL TO THE  
3 AGGREGATE EFFECTIVE TAX RATE THAT WOULD HAVE BEEN IMPOSED ON THE  
4 ADDITIONAL INCOME OF THE PAYOR CORPORATION IF THE INTEREST EXPENSE OR  
5 INTANGIBLE EXPENSE HAD NOT BEEN DEDUCTED.

6 (2) FOR PURPOSES OF SUBSECTION (C)(3)(II) OF THIS SECTION, THE  
7 COMPTROLLER MAY PROVIDE BY REGULATION FOR AN ALTERNATE CALCULATION  
8 OF THE EFFECTIVE RATE OF TAX IMPOSED IN THE AGGREGATE ON THE AMOUNTS  
9 RECEIVED BY THE RELATED MEMBER ALTERNATIVE TO THE EFFECTIVE TAX RATE  
10 REQUIREMENT OF SUBSECTION (C)(3)(II)3 OF THIS SECTION IF:

11 ~~(A)~~ (I) THE RELATED MEMBER:

12 ~~(A)~~ 1. IS SUBJECT IN ANOTHER STATE TO A TAX THAT IS  
13 MEASURED BY GROSS RECEIPTS OR IS MEASURED BY NET CAPITAL OR NET WORTH;  
14 AND

15 ~~(A)~~ 2. IS NOT SUBJECT IN THAT STATE TO A TAX MEASURED BY  
16 NET INCOME OR RECEIPTS; OR

17 ~~(2)~~ (II) UNDER OTHER CIRCUMSTANCES DEMONSTRATING TO THE  
18 SATISFACTION OF THE COMPTROLLER THAT AVOIDANCE OF ANY PORTION OF THE  
19 TAX DUE UNDER THIS TITLE IS NOT A PRINCIPAL PURPOSE OF THE TRANSACTION  
20 GIVING RISE TO THE PAYMENT OF THE INTEREST EXPENSE OR INTANGIBLE  
21 EXPENSE BETWEEN THE CORPORATION AND THE RELATED MEMBER, THE  
22 COMPTROLLER DETERMINES THAT IT IS IMPRACTICAL FOR A RELATED MEMBER  
23 THAT IS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE WHERE THE MEASURE  
24 OF THE TAX INCLUDES THE PAYMENT TO DEMONSTRATE THAT SATISFY THE  
25 REQUIREMENTS OF SUBSECTION (C)(3)(II) OF THIS SECTION HAVE BEEN SATISFIED.

26 ~~(E)~~ ~~(1)~~ FOR PURPOSES OF DETERMINING THE EFFECTIVE RATE OF TAX  
27 IMPOSED IN THE AGGREGATE BY OTHER JURISDICTIONS UNDER SUBSECTION (C) OF  
28 THIS SECTION:

29 ~~(1)~~ THE EFFECTIVE RATE OF TAX IMPOSED BY A JURISDICTION IS  
30 THE STATUTORY RATE MULTIPLIED BY THE APPLICABLE APPORTIONMENT RATE;  
31 AND

32 ~~(II)~~ THE EFFECTIVE RATE OF TAX IMPOSED IN THE AGGREGATE IS  
33 THE SUM OF THE EFFECTIVE RATES OF TAX IMPOSED BY ALL JURISDICTIONS WHERE  
34 THE RELATED MEMBER IS SUBJECT TO TAX AND WHERE THE MEASURE OF THE TAX  
35 IMPOSED INCLUDED THE PAYMENT.

36 ~~(2)~~ EVEN IF THE PAYMENT IS NOT INCLUDED IN THE RELATED  
37 MEMBER'S INCOME FOR PURPOSES OF A COMBINED OR CONSOLIDATED RETURN  
38 FILED IN ANOTHER JURISDICTION, THE MEASURE OF THE TAX IMPOSED BY THAT  
39 JURISDICTION INCLUDES THE INTEREST EXPENSE OR INTANGIBLE EXPENSE FOR  
40 PURPOSES OF SUBSECTION (C)(3) OF THIS SECTION IF:

1 ~~(H) THE INCOME OF THE CORPORATION THAT PAID, ACCRUED, OR~~  
2 ~~INCURRED THE EXPENSE IS INCLUDED IN THE COMBINED OR CONSOLIDATED~~  
3 ~~RETURN THAT ALSO INCLUDES THE RELATED MEMBER; AND~~

4 ~~(H) THE PAYMENT IS NOT DEDUCTED BY THE PAYOR~~  
5 ~~CORPORATION FOR PURPOSES OF THE COMBINED OR CONSOLIDATED RETURN.~~

6 (E) IF THE PAYOR AND THE RECIPIENT ARE BOTH INCLUDED IN A COMBINED  
7 OR CONSOLIDATED REPORT FILED IN A JURISDICTION:

8 (1) FOR PURPOSES OF SUBSECTION (C)(3)(II)2 OF THIS SECTION, THE  
9 MEASURE OF THE TAX IMPOSED BY THAT JURISDICTION SHALL BE DEEMED TO  
10 INCLUDE THE INTEREST EXPENSE OR INTANGIBLE EXPENSE; AND

11 (2) FOR PURPOSES OF DETERMINING THE EFFECTIVE RATE OF TAX  
12 IMPOSED BY THE JURISDICTION, THE APPLICABLE APPORTIONMENT RATE IS THE  
13 LESSER OF:

14 (I) THE APPORTIONMENT RATE OF THE RECIPIENT CORPORATION,  
15 DETERMINED BY USING ONLY THAT CORPORATION'S FACTORS IN THE NUMERATORS  
16 AND DENOMINATORS OF THE APPORTIONMENT FORMULA; OR

17 (II) THE APPORTIONMENT RATE OF THE COMBINED OR  
18 CONSOLIDATED GROUP, DETERMINED BY COMBINING THE RECIPIENT  
19 CORPORATION'S FACTORS WITH THE FACTORS OF OTHER MEMBERS OF THE GROUP  
20 INCLUDED IN THE COMBINED OR CONSOLIDATED REPORT.

21 (F) (1) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 AND 10-306  
22 OF THIS SUBTITLE, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TO  
23 DETERMINE MARYLAND TAXABLE INCOME, AN AMOUNT IS SUBTRACTED FROM THE  
24 FEDERAL TAXABLE INCOME OF A CORPORATION EQUAL TO THE AMOUNT RECEIVED  
25 AS ROYALTIES, INTEREST, OR SIMILAR INCOME FROM INTANGIBLES FROM A  
26 RELATED MEMBER TO THE EXTENT THE RELATED MEMBER, WITH RESPECT TO THE  
27 PAYMENT, IS SUBJECT TO THE ADDITION MODIFICATION UNDER SUBSECTION (B) OF  
28 THIS SECTION OR A SIMILAR ADDITION MODIFICATION OF ANOTHER STATE FOR  
29 INTANGIBLE EXPENSES OR INTEREST EXPENSES PAID TO RELATED MEMBERS.

30 (2) THE SUBTRACTION MODIFICATION UNDER THIS SUBSECTION IS  
31 NOT ALLOWED TO THE EXTENT THAT:

32 (I) THE TRANSACTION GIVING RISE TO THE PAYMENT OF THE  
33 INTEREST EXPENSE OR INTANGIBLE EXPENSE HAD AS A PRINCIPAL PURPOSE THE  
34 AVOIDANCE OF STATE INCOME TAXES;

35 (II) THE INTEREST EXPENSE OR INTANGIBLE EXPENSE WAS NOT  
36 PAID PURSUANT TO ARM'S-LENGTH CONTRACTS AT AN ARM'S-LENGTH RATE OF  
37 INTEREST OR PRICE; OR

1 (III) THE AGGREGATE EFFECTIVE TAX RATE IMPOSED ON THE  
2 AMOUNTS RECEIVED BY THE RECIPIENT EXCEEDS THE AGGREGATE EFFECTIVE TAX  
3 RATE IMPOSED ON THE INCOME OF THE PAYOR CORPORATION.

4 ~~(D)~~ ~~(F)~~ (G) THIS SECTION MAY NOT BE CONSTRUED:

5 (1) TO REQUIRE A CORPORATION TO INCLUDE IN OR ADD TO ITS NET  
6 INCOME MORE THAN ONCE ANY AMOUNT OF INTEREST EXPENSE OR INTANGIBLE  
7 EXPENSE THAT THE CORPORATION PAYS, ACCRUES, OR INCURS TO A RELATED  
8 MEMBER; OR

9 (2) TO LIMIT OR NEGATE ANY OTHER AUTHORITY PROVIDED TO THE  
10 COMPTROLLER UNDER THIS ARTICLE, INCLUDING:

11 (I) THE AUTHORITY TO MAKE ADJUSTMENTS UNDER § 10-109 OR §  
12 10-402(D) OF THIS TITLE; OR

13 (II) THE AUTHORITY TO ENTER INTO AGREEMENTS AND  
14 COMPROMISES OTHERWISE ALLOWED BY LAW.

15 ~~(E)~~ ~~(G)~~ (H) THE COMPTROLLER SHALL ADOPT ANY REGULATIONS THAT  
16 ARE NECESSARY OR APPROPRIATE TO IMPLEMENT THIS SECTION.

17 ~~40-725.~~

18 ~~(A)~~ ~~(1)~~ ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
19 ~~INDICATED:~~

20 ~~(2) "PAYEE CORPORATION" MEANS A CORPORATION PERSON THAT HAS~~  
21 ~~RECEIVED PAYMENTS OF ROYALTIES, INTEREST, OR SIMILAR INCOME FROM~~  
22 ~~INTANGIBLES FROM A RELATED MEMBER.~~

23 ~~(3) "RELATED MEMBER" HAS THE SAME MEANING AS SET FORTH IN §~~  
24 ~~10-306.1 OF THIS TITLE.~~

25 ~~(B) A PAYEE CORPORATION MAY CLAIM THE CREDIT DESCRIBED IN~~  
26 ~~SUBSECTION (C) OF THIS SECTION IF, FOR THE SAME TAXABLE YEAR, THE RELATED~~  
27 ~~MEMBER THAT PAID TO THE PAYEE CORPORATION THE ROYALTIES, INTEREST, OR~~  
28 ~~SIMILAR INCOME FROM INTANGIBLES:~~

29 ~~(4) IS SUBJECT TO THE ADDITION MODIFICATION SET FORTH IN §~~  
30 ~~10-306.1 OF THIS TITLE; AND~~

31 ~~(2) PAID TO THE COMPTROLLER THE FULL AMOUNT OF MARYLAND~~  
32 ~~CORPORATION INCOME TAX DEVELOPED ON THE MARYLAND INCOME TAX RETURN~~  
33 ~~ON WHICH THE ADDITION MODIFICATION SET FORTH IN § 10-306.1 OF THIS TITLE~~  
34 ~~WAS INCLUDED.~~

35 ~~(C)~~ ~~(1)~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE AMOUNT OF  
36 THE CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION IS EQUAL TO THE



~~1 MARYLAND INCOME TAX LIABILITY OF THE RELATED MEMBER THAT PAID THE  
2 ROYALTIES, INTEREST, OR SIMILAR INCOME FROM INTANGIBLES TO THE PAYEE  
3 CORPORATION, AS COMPUTED ON ITS MARYLAND INCOME TAX RETURN FILED WITH  
4 THE COMPTROLLER, REDUCED BY THE MARYLAND INCOME TAX LIABILITY OF THE  
5 RELATED MEMBER THAT PAID THE ROYALTIES, INTEREST, OR SIMILAR INCOME  
6 FROM INTANGIBLES TO THE PAYEE CORPORATION, COMPUTED WITHOUT REGARD  
7 TO THE ADDITION MODIFICATION REQUIRED IN § 10-306.1 OF THIS TITLE.~~

~~8 (2) (I) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
9 SECTION MAY NOT EXCEED THE STATE INCOME TAX LIABILITY OF THE PAYEE FOR  
10 THAT TAXABLE YEAR, CALCULATED BEFORE THE APPLICATION OF THE CREDIT  
11 ALLOWED UNDER THIS SECTION AND THE CREDITS ALLOWED UNDER §§ 10-701 AND  
12 10-701.1 OF THIS SUBTITLE BUT AFTER APPLICATION OF ANY OTHER CREDITS  
13 ALLOWED UNDER THIS SUBTITLE.~~

~~14 (II) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR  
15 MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.~~

~~16 (D) THE COMPTROLLER SHALL BY REGULATION PROVIDE FOR THE  
17 APPLICATION OF THE CREDIT UNDER THIS SECTION IN THE CASE OF A PAYEE THAT  
18 IS AN S CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER  
19 ENTITY TREATED AS A PARTNERSHIP FOR TAX PURPOSES.~~

20 10-804.

21 (e) Each person required under this subtitle to file an income tax return or  
22 estimated income tax declaration or return shall:

23 (3) attach to an income tax return or otherwise file with the Comptroller  
24 any records or statements that the Comptroller requires, including:

25 (i) for an individual who has income tax withheld from salary,  
26 wages, or other compensation for personal services, or other payments, a copy of the  
27 statement from the person who withholds the tax that states:

28 1. the amount of salary, wages, or other compensation for  
29 personal services paid and the income tax withheld; or

30 2. the amount of payments made and the income tax  
31 withheld; [and]

32 (ii) a copy of the federal income tax return:

33 1. for a corporation; and

34 2. if the Comptroller requests, for an individual; AND

35 (III) IF THE COMPTROLLER REQUESTS, FOR A CORPORATION THAT  
36 IS A MEMBER OF AN AFFILIATED GROUP OR CONTROLLED GROUP UNDER § 1504 OR §  
37 1563 OF THE INTERNAL REVENUE CODE, A STATEMENT OF ALL INTERMEMBER COSTS

1 OR EXPENSES AND ALL INTERMEMBER SALES, EXCHANGES, OR OTHER  
2 TRANSACTIONS INVOLVING TANGIBLE OR INTANGIBLE PROPERTY FOR THE TAXABLE  
3 YEAR.

4 SECTION 2. AND BE IT FURTHER ENACTED, That:

5 (a) all corporations required to make the addition to federal taxable income set  
6 forth in § 10-306.1 of the Tax - General Article shall make estimated tax payments  
7 under § 10-821 of the Tax - General Article that reflect any increased Maryland  
8 corporation income tax liability resulting from the addition; and

9 (b) notwithstanding the provisions of §§ 13-602 and 13-702 of the Tax -  
10 General Article, with respect to those corporations required to make the addition to  
11 federal taxable income set forth in § 10-306.1 of the Tax - General Article, for all  
12 taxable years beginning in calendar year 2004 only, the payment of 110% or more of  
13 the tax paid for the prior taxable year, reduced by the credit allowed under § 10-703  
14 of the Tax - General Article, does not preclude the Comptroller from assessing:

15 (1) interest, under § 13-602 of the Tax - General Article, on unpaid tax;  
16 and

17 (2) penalty, under § 13-702 of the Tax - General Article, on  
18 underestimated tax.

19 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this  
20 Act or the application thereof to any person or circumstance is held invalid for any  
21 reason in a court of competent jurisdiction, the invalidity does not affect other  
22 provisions or any other application of this Act which can be given effect without the  
23 invalid provision or application, and for this purpose the provisions of this Act are  
24 declared severable.

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take  
26 effect July 1, 2004, and shall be applicable to all taxable years beginning after  
27 December 31, 2003.